



**THE CITY OF NEW YORK
LAW DEPARTMENT**

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August 9, 2007

VIA HAND DELIVERY

Honorable Victor M. Marrero
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Michael Lloyd, et al v. City of New York, et al., 07 CV 4733 (VM)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendants City of New York and the New York City Police Department. I write further to my letter dated July 5, 2007 in which City defendants requested and were granted an enlargement of time until September 5, 2007, within which to answer or otherwise respond to the complaint. Defendants initially requested an enlargement of time to afford us the opportunity to conduct an investigation into the facts of the case, investigate service of the complaint and to resolve representation issues. I now write to respectfully request a further enlargement of time for City defendants to answer or otherwise respond to the complaint.¹ Plaintiffs' counsel, Brian Robinson, Esq., consents to this request.

The reason for this request is that Rule 11(b)(4) of the Federal Rules of Civil Procedure requires us to make a reasonable inquiry into the allegations contained in the complaint before answering or otherwise responding. In an attempt to do so, we requested signed authorizations from plaintiffs for the release of the underlying criminal records sealed pursuant to NYCPL § 160.50 (1)(d) for their arrests on March 4, 2006 and medical releases pertaining to any physical and/or psychological treatment received in connection with the alleged incidents. Our first request for the signed authorizations was by letter dated June 22, 2007. Our

¹ Upon information and belief, Police Officers Guiney and Scandale have not been served with a copy of the summons and complaint in this action. Without making any representation on behalf of these individuals, assuming service was properly effected, it is respectfully requested that their time to respond to the complaint similarly be enlarged so that their defenses are not jeopardized while representational issues are being decided.

second request was by letter dated July 25, 2007. On or about August 2, 2007, we received the executed unsealing releases and several medical releases from plaintiffs.

As Your Honor is aware, defendants require the unsealing releases in order to obtain any records that may exist concerning the arrests and prosecutions of plaintiffs, including records from the New York City Police Department. Additionally, as plaintiffs are claiming physical and/or psychological injuries in this case, defendants need to obtain plaintiffs' medical records for any treatment received in connection with these claims in order to fully investigate the extent, nature and causation of these allegations. It generally takes more than 30 days to secure the underlying documents once a properly executed release is returned to this office. Since we only recently received the releases from plaintiffs, an enlargement of time is necessary. Without the releases, defendants cannot obtain the relevant records and cannot properly assess this case or respond to the complaint.

In light of the above, we respectfully request that the Court grant defendants an additional forty-five (45) days, until October 19, 2007 to obtain the relevant documents and submit an answer or otherwise respond to the complaint. The enlargement of time will also permit this office to continue to investigate service on the individually named defendants, resolve representation issues, and if appropriate, serve and file answers to the complaint on their behalf.

In view of the foregoing, it is respectfully requested that the Court grant the within request. Thank you for your consideration.

Respectfully submitted,



Sarah B. Evans (SE 5971)
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Special Federal Litigation Division

cc: Brian Robinson, Esq. (By fax)
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Request GRANTED. The time for defendant(s) to answer or otherwise move with respect to the complaint in this action is extended to <u>10-19-07</u> .	
SO ORDERED.	
8-13-07	DATE
VICTOR MARRERO, U.S.D.J.	

USDS SDNY
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DATE FILED: <u>8-16-07</u>